

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

JIMMIE LESTER,  
Plaintiff,

Case No. 1:16-cv-1065  
Black, J.  
Litkovitz, M.J.

vs.

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION, et al.,  
Defendants.

**ORDER**

Plaintiff, an inmate at Lake Erie Correctional Institution, filed this pro se civil rights action under 42 U.S.C. § 1983 alleging that defendant DeAnn Osgood violated his Eighth Amendment rights.<sup>1</sup> This matter is before the Court on plaintiff's Motion for an Order to Compel Discovery (Doc. 65), defendant's opposing memorandum (Doc. 71), and plaintiff's reply (Doc. 76).

Plaintiff filed his motion to compel the production of documents under Fed. Rule Civ. P. 37 on August 14, 2019. (Doc. 65). Defendant argues in response that the motion to compel should be denied because (1) defendant properly responded to plaintiff's document requests, and (2) plaintiff did not attempt to resolve the alleged discovery dispute extrajudicially. (Doc. 71). Plaintiff asserts in reply that his motion to compel is moot. (Doc. 76). He alleges he should have exhausted his extrajudicial remedies under S.D. Ohio Civ. R. 37.1 by contacting the Court to arrange a telephone conference before filing the motion.<sup>2</sup> Further, plaintiff acknowledged that

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<sup>1</sup> Plaintiff also named the Ohio Department of Rehabilitation and Correction (ODRC) as a defendant, but the ODRC has since been dismissed from the case. (Doc. 11).

<sup>2</sup> Because plaintiff is an incarcerated pro se litigant, he is not required to contact the Court to schedule an informal discovery conference before filing a motion to compel. *See* Magistrate Judge Litkovitz's Standing Order on Civil Procedures, §1.D.2.

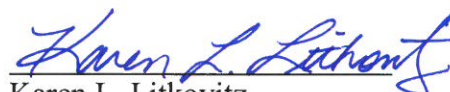
defendant would provide the outstanding discovery responses once the stay of discovery ended on September 30, 2019.

Plaintiff's motion to compel is not well-taken. Defendant asserts that she has responded to plaintiff's discovery requests, including by providing additional supplemental responses and responses to plaintiff's second set of discovery requests. (Doc. 71). Defendant contends that plaintiff has not identified any deficiencies in her responses. Defendant also asserts that while she does not have access to any telephonic recordings that may be in the possession of the ODRC, she has requested such recordings and will forward them to plaintiff upon receipt. Plaintiff acknowledges in his reply filed on September 23, 2019, that the responses to his outstanding discovery requests are "forthcoming" and his motion is therefore moot. (Doc. 76). Accordingly, plaintiff's motion to compel discovery (Doc. 65) is **DENIED**.

**IT SO ORDERED.**

Date:

10/25/19



Karen L. Litkovitz  
United States Magistrate Judge